



Linda S. Adams  
Agency Secretary

# California Regional Water Quality Control Board

## Central Coast Region



Arnold Schwarzenegger  
Governor

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September 27, 2006

CERTIFIED MAIL 7006 0100 0000 1777 7355

Doug Monn  
City of El Paso de Robles  
1000 Spring Street  
Paso Robles, CA 93446

### **NOTICE OF VIOLATION – NPDES SMALL MS4S GENERAL PERMIT; CITY OF EL PASO DE ROBLES, SAN LUIS OBISPO COUNTY, WDID# 3 40MS03019**

Mr. Monn:

We received the City of Paso Robles (City) 2006 Annual Report outlining the City's Storm Water Management Program (SWMP) implementation from January 2005 – June 2006. Water Board staff reviewed the Annual Report and find it deficient and in violation of the Municipal Separate Storm Sewer System (MS4) *Water Quality Order No. 2003-0005-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small MS4s (General Permit)*.

This Notice of Violation addresses compliance issues related to the General Permit and the SWMP. The City has failed to submit an annual report with information required by the General Permit and the City failed to implement first year Best Management Practices as proposed in the SWMP.

#### **Violations**

The City had multiple violations of the General Permit. The violations are described below and are divided into two categories, deficient annual report and SWMP violations.

Deficient Annual Report – The City violated the General Permit by failing to submit an annual report with information required by the General Permit and as outlined in the City's SWMP.

1. General Permit section F.1 requires the City submit an annual report with the status of compliance with permit conditions, an assessment of the appropriateness and effectiveness of the identified BMPs, status of the identified measurable goals, results of information collected and analyzed, including monitoring data, if any, during the reporting period, a summary of the storm water activities the Permittee plans to undertake during the next reporting cycle, any proposed change(s) to SWMP along with a justification of why the change(s) are necessary, and changes in the person or persons implementing and coordinating SWMP.

***California Environmental Protection Agency***



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2. The Annual Report does not assess SWMP effectiveness. Effectiveness evaluation is a critical component to a successful municipal storm water program. The annual report contains no meaningful discussion of BMP effectiveness and does not include information regarding compliance with General Permit conditions.
3. The annual report does not discuss the implementation of permit year-two BMPs. The reporting period for the City's first annual report was January 2005 – June 2006, which covers all of permit year-one and six months of permit year-two. The annual report should include discussion of year-two BMP implementation and effectiveness.
4. Section 10.4 of the SWMP indicates that, "The goal will be to clearly show program effectiveness and progress, to discuss program adjustments, and response to challenges in implementing the SWMP." The annual report does not clearly discuss program effectiveness, potential adjustments, or respond to program challenges.

SWMP Violations – The City failed to implement the following BMPs as outlined in the SWMP. Failure to fully implement the SWMP is a violation of the General Permit Section D<sup>1</sup>.

PE-1 – The SWMP indicates that the City will track the number of water quality brochures/fact sheets distributed to those who adopt streets in the adopt-a-street program. There is no information in the annual report regarding the number of brochures/fact sheets distributed or if the task was completed.

PE-6 – The SWMP indicates that the City will distribute program materials at public events the City already attends for other programs (recycling, street maintenance, etc.) starting in year-one. The City will track the number of public events where program materials are distributed, as well as the number of fact sheets/brochures distributed. The annual report provides no information about the events that were attended and the number of fact sheets/brochures that were distributed or if the tasks were completed.

PP-1 – The City does not discuss the comments that were received, if any, during the public comment period/public participation for the SWMP. The SWMP indicates that the number of public participants, as well as the number of comments received on the draft program will be recorded. The City should discuss whether this BMP was an effective public participation BMP, and if not, what could be done to improve public participation.

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<sup>1</sup> Permit Section D states, in part, "The Permittee shall maintain, implement, and enforce an effective SWMP, and develop adequate legal authority to implement and enforce the SWMP, designed to reduce the discharge of pollutants from the permitted MS4 to MEP and to protect water quality. SWMP shall serve as the framework for identification, assignment, and implementation of control measures/BMPs. The Permittee shall implement SWMP and shall subsequently demonstrate its effectiveness and provide for necessary and appropriate revisions, modifications, and improvements to reduce pollutants in storm water discharges to the MEP."



ID-1 – The City includes the reporting form that was developed, but does not explain how it is used or if it is in use. The City must explain use of the form and the number of complaints that were received in year-one. If the form is not in use, the City should explain why and also explain how the public is made aware of the form.

ID-3 – The BMP requires the City review/assess mapping progress at the end of each program year and identify target outfalls. The annual report does not contain an assessment or any discussion of targeted outfalls.

PC-1 – The report does not discuss the number and percent of construction projects that were inspected. The SWMP indicates that the percent of projects implementing structural runoff controls in accordance with design standards would be tracked.

PC-1 – The SWMP indicates that the City will update the General Plan to include Attachment 4<sup>2</sup> design standards. The annual report does not discuss General Permit Attachment 4 design standards.

Section 10.3 – SWMP Section 10.3 indicates that, "The City will develop a reporting system to allow organized and consistent reporting of BMPs." The annual report provides no information about the City's BMP reporting system. The City must provide information regarding the BMP reporting system and explain how BMPs are tracked, evaluated, and modified if necessary, and include actual reported data.

### **Required Actions**

The City is required to comply with the following timeline and requirements. Failure to meet the following timeline will result in staff recommending additional enforcement action:

1. The City must provide, by **October 27, 2006**, detailed explanations of BMP implementation and effectiveness for the period of January 2005 – June 2006, which includes all year-one BMPs and six months of year-two BMP implementation.
2. The City must explain why BMPs PE-1, PE-6, PP-6, PP-1, ID-1, ID-3, and PC-1 were not fully implemented in permit year-one. The City must provide a time schedule for implementation of required BMPs and an explanation of BMP deficiencies listed in the violation section of this letter by **October 27, 2006**.
3. SWMP Section 10.3 indicates that, "The City will develop a reporting system to allow organized and consistent reporting of BMPs." The City must provide details regarding the new reporting system. Explain how BMPs are tracked, selected, implementation schedules are developed, and how feedback on BMP

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<sup>2</sup> Attachment 4 of Water Quality Order No. 2003-0005-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small MS4s



- effectiveness is handled. The City must submit details regarding the reporting system by **October 27, 2006**.
4. The City must adopt an ordinance or other document to ensure implementation of General Permit Attachment 4 design standards by **November 29, 2006**. The City must develop and incorporate BMPs, into the SWMP, addressing plan reviews, planning staff training, and other proposed mechanisms to demonstrate that General Permit Attachment 4 design standards are implemented in construction projects within the City. The City must update the SWMP to include Attachment 4 related BMPs by **November 29, 2006**.
  5. The City's next annual report will be due **March 22, 2007**, and will cover the permit year of January 6, 2006 through January 5, 2007. All subsequent annual reports must be submitted by March 22 annually, and shall cover SWMP implementation from January 6 – January 5 each year.
  6. The City must submit an annual budget for implementing the SWMP. Provide an annual per household cost for implementing the SWMP, the total amount budgeted for implementation, and the percentage of budget spent on each of the six minimum control measures required by the Permit. Include the actual budget information for first year permit implementation and an approved budget for year-two implementation by **October 27, 2006**.
  7. SWMP Section 10.2 discusses the importance of public awareness surveys and indicates that they will be administered every two years. Surveys were not mentioned in the Annual Report and therefore Water Board staff must assume that the first survey will occur in permit year-two. The City must provide a schedule for administering the public awareness surveys in the SWMP.

The Annual Report includes a Pollution Prevention/Good Housekeeping Evaluation (Evaluation) section, which assessed operations, activities, and existing storm water management practices for municipal operations. The following required actions are based on Water Board staff review of the Evaluation.

8. The City must commit to updating the Landscaping/Grounds Care Operating Procedures (Landscape SOP) to consider storm water quality. The Evaluation contained in the annual report includes some good suggestions for improving procedures to protect water quality. However, there is no commitment from the City to make changes to the Landscape SOP to protect water quality. The City must revise the SWMP to include time schedules for implementing the revised practices. If the City decides not to implement any of the potential revised practices, then an alternate BMP must be included in the SWMP with a time schedule for implementation.
9. The City must develop and implement an integrated pest management program that includes tracking City pesticide use on an annual basis. The City must also develop and implement a nutrient management program that will include tracking fertilizer use on an annual basis in an effort to minimize impacts to water quality. The City must provide a time schedule for development and implementation of an integrated pest management program and nutrient management program.



10. In the City Streets section of the Evaluation, the list of potential revised practices include increasing street sweeping, increasing storm water culvert and inlet cleaning, installing filters on drain inlets, and increasing enforcement of vehicle hauling regulations. The City must provide a time schedule for implementing the suggested revised practices and must incorporate the new or modified BMPs into the SWMP.
11. In the City maintenance yard section of the Evaluation, the City indicates that vehicle wash water runoff makes its way to nearby storm drains and runoff from street sweeping stockpiles flows to storm drains. Current practices of vehicle washing and street sweeper debris handling are not acceptable and must be modified to protect water quality immediately. The City indicates that staff is currently putting together a funding request for the purchase and installation of a self contained vehicle and equipment washing station. City staff is also putting together a plan to construct an approved transfer station for trash and sweeper debris. The City must provide specific information and a proposed time schedule for implementing improvements to the City maintenance yard. Temporary BMPs must be implemented in the maintenance yard immediately to protect water quality while the City obtains funding for permanent vehicle washing and street sweeping runoff BMPs. The City must include, in the SWMP, proposed temporary and permanent BMPs to eliminate maintenance yard pollutant sources.

The City must submit a revised SWMP, by **November 29, 2006**, with the information required in items 7 – 11.

Order No. 2003-0005-DWQ requires the City to comply with commitments set forth in the City's SWMP. The City has failed to comply with year-one SWMP commitments, and is therefore subject to liability. The dates associated with the above items do not relieve the City from liability for any violations of Order No. 2003-0005-DWQ including failing to implement the SWMP. The Central Coast Water Board reserves the right to take any enforcement action authorized by law, notwithstanding compliance with the above dates. The above deadlines do not modify the SWMP, and any recommended civil liability will be based on the due dates in the SWMP.

Pursuant to California Water Code Section 13385, the Central Coast Water Board may impose upon the City civil liability for up to ten thousand dollars (\$10,000) for each day that a violation occurs.

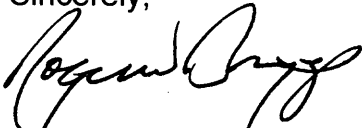
Any person affected by this action of the Central Coast Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, P. O. Box 100 Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request. If the City fails to comply in a timely or complete manner with



the items in this Notice of Violation, and in accordance with the requirements of Order No. 2003-0005-DWQ, staff intends to refer these issues to the Central Coast Water Board Enforcement Unit for additional enforcement as described above.

If you have questions regarding this matter, please contact **Ryan Lodge at (805) 549-3506**, or **rlodge@waterboards.ca.gov**.

Sincerely,



Roger W. Briggs  
Executive Officer

cc: Lori Okun  
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State Water Resources Control Board  
P.O Box 100  
Sacramento, CA 95812-0100

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